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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/683,787	02/14/2002	David P. Lobeck	DL01	2195

27797 7590 05/05/2006

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EXAMINER
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BROCKETTI, JULIE K

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 05/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Notice of Abandonment

Application No.

09/683,787

Examiner

Julie K. Brockett

Applicant(s)

LOBECK, DAVID P.

Art Unit

3713

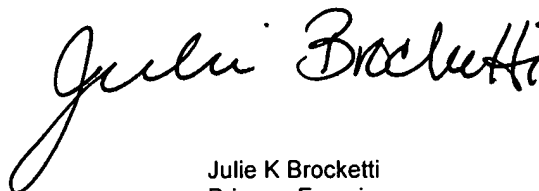
-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on \_\_\_\_\_.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☒ The reason(s) below:

See Continuation Sheet



Julie K Brockett  
Primary Examiner  
Art Unit: 3713

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Item 7 - Other reasons for holding abandonment: It is noted that Appellant's appeal is dismissed for failure to timely file an amended brief which overcomes all of the reasons for non-compliance of which the appellant was notified on 12-9-05. Appellant has had two chances to correct the appeal brief and it is still not in compliance. Therefore, the application is abandoned. Specifically the arguments in the brief is not correct. Under the first ground of rejection, "Rejection under 35 USC 103(a) over US Patent No. 5,584,768 (Lee) in view of US Patent No. 5,735,751 (Pacheeco)" applicant has listed subheadings "(A) Claims 1, 2, 4, 10-13 and 17" "(B) Claims 1, 13 and 18", "(C) Claim 4", and "(D) Claims 13-22". It is noted that claims 1, 4 and 13 are listed in multiple subheadings, meaning they are argued separately multiple times? This is improper. Furthermore, claim 18 is not even rejected under the first ground of rejection and should not be included in a subheading under the first ground of rejection. Furthermore, claims 13-22 are not all included under the first ground of rejection and as such they should not fall together under a subheading. With respect to the fifth ground of rejection "Rejection under 35 USC 103(a) over US Patent No. 5,584,768 (Lee) in view of US Patent No. 5,735,751 (Pacheco) further in view of US Patent No. 4,757,194 (Simms)" appellant has a sub heading for claims 3, 18, and 22. But these claims are not rejected under this ground of rejection. The subheading should refer to claims 9, 14 and 19. Consequently, because of the numerous errors in appellant's argument section it is unclear as to exactly what arguments are being presented for each of the claims and which claims are being argued separately. Therefore, the appeal brief is not in compliance with the rules specified in 37 CFR 41.37. The Examiner further notes that in the section "Summary of the Claimed Subject Matter" Appellant included claims 5, 6, 15, 16, 3, 18, 22, 20, 21, 9, 14 and 19 with descriptions of the claims but forgot to insert paragraph and line numbers corresponding to the specification.